IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 25722 of 2002

DATED: 14-03-2006

Between:

D.Lakshmipathy petitioner

And

The Presiding Officer, Labour Court,

Godavarikhani, Khammam district and others Respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 25722 OF 2002

ORAL ORDER:

The present writ petition is filed questioning the award of the Labour Court in I.D. No. 137 of 2000 dated 02.08.2001 and for consequential directions to respondents 2 to 4 to reinstate the petitioner into service with full backwages and other attendant benefits.

The petitioner was working as a conductor in the respondent corporation. Based on a surprise check conducted on 18.9.1998 he was issued with a charge sheet

28.9.1998 alleging cash and ticket irregularities. Being not satisfied with the explanation submitted by the petitioner an enquiry was ordered and based on the report of the enquiry officer, the services of the petitioner were terminated vide proceedings dated 4.2.1999. The appeal and revision preferred by the petitioner were rejected by orders dated 12.7.1999 and 7.2.2000 respectively. Thereafter, the petitioner preferred an industrial dispute in I.D. No. 137 of 2000. The Labour Court passed an ex-parte award dated 2nd August, 2001 dismissing the petition and confirming the punishment of removal from service imposed on the petitioner. Hence, the present writ petition.

The respondent corporation filed a counter affidavit *inter alia* stating that the petitioner has collected the amounts from the subject passengers and pocketed the legitimate revenue of the respondent corporation and the charges alleged against the petitioner were proved in the enquiry conducted by the corporation. The Disciplinary Authority based on the report of the enquiry officer, removed the petitioner from service. The Labour Court passed award dated 2.8.2001 dismissing the petition and confirming the punishment imposed by the Disciplinary Authority.

Learned counsel for petitioner submitted that the counsel engaged by the petitioner has not prosecuted the case and the petitioner lost opportunity to defend his case before the Labour Court. It is also stated that the Court below erred in passing an ex-parte award dismissing the petitioner and confirming the punishment imposed on the petitioner and prayed to remand the matter to the Labour Court, for fresh consideration.

Heard the learned counsel for petitioner, learned Standing Counsel for respondent corporation and learned Government Pleader for Labour and perused the material available on record.

A serious allegation of involvement in non-issuance of ticket after collecting the amount is leveled against the petitioner. The case of the petitioner is that after closing the SR while he was tallying the ticket issued with the number of passengers, he identified four ticket-less passengers and after collecting the fare while he was about to issue the tickets, the check was exercised. The said contention of the petitioner cannot be accepted for the reason that he has not followed the primary rule of "*ISSUE AND START*". Nothing prevented the petitioner from stopping the bus on identifying the ticket-less passengers and to issue proper

ticket to them, more so, when the distance to be traveled by the said passengers is short. If really the petitioner was in the process of issuing tickets at the time of check, he ought to have stated the same in the spot explanation, which he has not done and stated that he would give his statement later. Thereafter, the petitioner came out with the above said explanation in his defence, which is nothing but an after-thought. Thus, the award of the Labour Court confirming the punishment imposed on the petitioner does not warrant any interference. Now coming to the request of the learned counsel for petitioner to remand the matter to Labour Court for fresh consideration, the same cannot be accepted for the reason the petitioner has not properly explained as to why he has not prosecuted the matter before the Labour Court despite granting so many adjournments, except stating that the Advocate engaged by him has not prosecuted the matter.

There are no merits in the writ petition. Accordingly, the writ petition is dismissed. No costs.

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N.V.RAMANA,J

DATE: 14-3-2006

TVK

THE HON'BLE MR JUSTICE N.V. RAMANA

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